

## FIRST DIVISION

**[ A.M. NO. RTJ-02-1731, February 16, 2005 ]**

**SHIRLEY C. RUIZ, COMPLAINANT, VS. JUDGE ROLINDO D. BELDIA, JR., REGIONAL TRIAL COURT, BRANCH 57, SAN CARLOS CITY, NEGROS OCCIDENTAL, [ASSISTING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 272, MARIKINA CITY,] RESPONDENT.**

### ***DECISION***

#### **YNARES-SANTIAGO, J:**

In an Affidavit-Complaint<sup>[1]</sup> filed with the Office of the Court Administrator (OCA), complainant Shirley C. Ruiz charged respondent Judge Rolindo D. Beldia, Jr. of Branch 57, Regional Trial Court, San Carlos City, Negros Occidental, with gross ignorance of the law and grave abuse of authority in connection with the grant of bail and issuance of a release order in favor of one Lourdes Estrella Santos.

Ruiz is the private complainant in I.S. No. 2000-1031 for violation of the Anti-Fencing Law<sup>[2]</sup> pending before the Department of Justice (DOJ). Santos, who was arrested during entrapment operations relative to the carnapping of Ruiz's vehicle, was one of the respondents therein.

After her arrest on May 24, 2000, Santos was detained in Camp Crame, Quezon City, pending the filing of formal charges in court. Upon inquest, she executed a waiver of the provisions of Article 125<sup>[3]</sup> of the Revised Penal Code in relation to Rule 112, Section 7<sup>[4]</sup> of the then applicable 1985 Rules of Criminal Procedure. The Inquest Prosecutor thus set the hearing of the preliminary investigation on May 31, 2000 at 2:00 PM.<sup>[5]</sup>

However, on May 30, 2000, Santos obtained an Order of Release<sup>[6]</sup> signed by respondent Judge Beldia who was then detailed as assisting judge of Branch 272, Regional Trial Court of Marikina City (RTC-Marikina City). Respondent Judge Beldia apparently granted bail to Santos and approved the corresponding bail bond without serving notice to the prosecutor.

Consequently, Ruiz filed the instant administrative complaint contending that respondent Judge Beldia had no authority to grant bail to Santos since the Investigating Prosecutor has yet to conclude the preliminary investigation. She claimed that for as long as the information has not yet been filed in court, a court has no power to grant bail to a detained person since it has not yet acquired jurisdiction over the person of the accused.

In his Comment<sup>[7]</sup> dated August 14, 2000, respondent Judge Beldia maintained that Section 1 (c), Rule 114 of the Rules of Court allows any person in custody, even if

not formally charged in court, to apply for bail.

Meanwhile, the OCA directed the Clerk of Court, Branch 272, RTC-Marikina City, Atty. Elvira Badillo-Adarlo, to confirm whether a formal petition for admission to bail was filed by Santos or her counsel and, whether Executive Judge Reuben P. de la Cruz and Presiding Judge Olga P. Enriquez were absent or unavailable on May 30, 2000 when the release order was issued.<sup>[8]</sup>

On June 18, 2002, Atty. Badillo-Adarlo informed the OCA that the records of release orders and bailbonds in her custody did not include the subject release order issued by respondent Judge Beldia. As such, she could not tell whether a formal petition for admission to bail was filed by Santos. She likewise confirmed that Executive Judge De la Cruz and Presiding Judge Enriquez were present and available on the day that Judge Beldia issued the release order.<sup>[9]</sup>

On November 20, 2002, the complaint was re-docketed as a regular administrative matter. At the same time, the parties were required to manifest whether they are willing to submit the case for resolution based on the pleadings filed.<sup>[10]</sup> The parties failed to file their manifestations, hence the filing thereof was deemed waived.

In its report<sup>[11]</sup> dated July 31, 2002, the OCA recommended that respondent Judge Beldia be held liable for gross ignorance of the law and fined in the amount of P5,000.00. It opined that although a person in custody and who is not formally charged in court could apply for bail pursuant to Section 17 (c), Rule 114, the grant thereof by Judge Beldia was nonetheless irregular. It noted that no formal petition or application for bail was filed by Santos, and even if one was filed, the Marikina courts could not have properly taken cognizance of the same since Santos was detained at Camp Crame in Quezon City. There was also no showing that the regular judge of Branch 272, RTC-Marikina City, was unavailable to act on the application for bail.

We agree with the recommendation of the OCA.

Record shows that Executive Judge De la Cruz and Presiding Judge Enriquez were present on May 30, 2000 to act on the bail application of Santos. When respondent Judge Beldia acted on the bail application of Santos on May 30, 2000, his designation was merely an "assisting judge" in the RTC-Marikina City, his permanent station being in Branch 57, RTC-San Carlos City, Negros Occidental. As such, his authority in the Marikina court is limited and he could only act on an application for bail filed therewith in the absence or unavailability of the regular judge.

Concededly, a person lawfully arrested and detained but who has not yet been formally charged in court, can seek his provisional release through the filing of an application for bail. He need not wait for a formal complaint or information to be filed since bail is available to "all persons" where the offense is bailable.<sup>[12]</sup> Section 7, Rule 112 of the 1985 Rules of Criminal Procedure provides that a judge could grant bail to a person lawfully arrested but without a warrant, upon waiver of his right under Article 125 of the Revised Penal Code, as Santos had done upon her inquest.

Undeniably too, Santos was entitled to bail as a matter of right since the offense

with which she was charged does not carry the penalty of life imprisonment, *reclusion perpetua* or death.<sup>[13]</sup> Notwithstanding, it was incumbent upon respondent Judge Beldia to grant bail to Santos in accordance with established rules and procedure. Respondent Judge Beldia failed in this respect and must thus be held administratively liable.

Section 17, par. (c) of Rule 114 distinctly states:

SEC. 17. Bail, where filed. – ...

(c) Any person in custody who is not yet charged in court may apply for bail with ***any court in the province, city, or municipality where he is held.*** (Emphasis supplied)

The Certificate of Detention<sup>[14]</sup> issued by the PNP-TMG-SOD shows that Santos was detained at Camp Crame in Quezon City. Thus, as correctly pointed out by the OCA, the application for bail should have been filed before the proper Quezon City court and not in Marikina City.

In addition, it appears that no formal application or petition for the grant of bail was filed before the RTC-Marikina City. There were no records of the application or the release order issued by respondent Judge Beldia. Neither was there a hearing conducted thereon nor the prosecutor notified of the bail application.

Under the present rules, a hearing on an application for bail is mandatory.<sup>[15]</sup> In *Cortes v. Judge Catral*,<sup>[16]</sup> we ruled that in all cases, whether bail is a matter of right or of discretion, reasonable notice of hearing must be given to the prosecutor, or at least his recommendation on the matter must be sought. The rationale for this was explained in this wise:

Bail should be fixed according to the circumstances of each case. The amount fixed should be sufficient to ensure the presence of the accused at the trial yet reasonable enough to comply with the constitutional provision that bail should not be excessive. Therefore, whether bail is a matter of right or of discretion, reasonable notice of hearing is required to be given to the prosecutor or fiscal or at least he must be asked for his recommendation because in fixing the amount of bail, the judge is required to take into account a number of factors such as the applicant's character and reputation, forfeiture of other bonds or whether he is a fugitive from justice.<sup>[17]</sup>

Judge Beldia disregarded basic procedural rules when he granted bail to Santos *sans* hearing and notice and without the latter having filed a formal petition for bail. Accordingly, the prosecution was deprived of procedural due process for which respondent Judge Beldia must be held accountable.<sup>[18]</sup>

There is no dearth of jurisprudence on the rules to be applied in the grant of bail.<sup>[19]</sup> These same rules have been incorporated in the Rules of Court, of which a judge must have more than just a superficial understanding, if he were to discharge his functions properly and competently. Indeed, everyone, especially a judge, is presumed to know the law. When, as in this case, the law is so elementary, not to